

DETAILED ACTION

This communication is a first Office Action Non-Final rejection on the merits.

Preliminary Amendment filed October 25, 2007 has been acknowledged. Claims 15, 18, and 25-27 have been canceled. Claims 1-14, 16, 17, 19-24, and 28-30 are currently pending and have been considered below.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3, 4, 19, and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims recite the limitation "the sensor" in Line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 7, 8-14, 16, 17, 19, 23, 24, 28-30 are rejected under 35 U.S.C. 103(a) as being obvious over Chen et al. (6,853,303) in view of Appelt et al. (US 2004/0004547).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention “by another”; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(l)(1) and § 706.02(l)(2).

As per Claims 1 and 16, Chen et al. discloses a method and system of providing feedback to personnel performing a given procedure ([0010-0011] discloses a method for providing information to personnel working in hazardous or potentially hazardous conditions), the method comprising:

identifying equipment that an individual is required to have for performing a procedure by configuring a sensor with the equipment, the sensor containing information to identify each respective piece of equipment it is configured with (Col. 9, Lines 1-10, discloses identifying the equipment that an individual is required to have for performing a procedure and configuring a smart tag with the identified equipment, the smart tag containing information to identify the equipment it is configured with);

providing a scanner to an individual to permit communication with sensors, the scanner configured to send and receive signals from the sensors (Col. 4, Lines 36-38, discloses providing a scanner system that includes an antenna for transmitting a trigger signal and receiving the pulsed equipment information signal);

scanning the sensors and communication information from the sensors to an individual when a change in any sensor is detected (Col. 5, Lines 14-22, discloses scanning the smart tag and communication an alarm to an individual if that individual does not have all of the required pieces of equipment); and

communicating countermeasures available to an individual to counteract the change (Col. 3, Lines 1-5, discloses providing a visual display of the required equipment that the individual is missing).

However, Chen et al. fails to explicitly disclose providing a sensor to detect a hazardous change and a sensor to detect a characteristic of an individual's physiological condition.

Appelt et al. discloses a method for informing personnel of hazardous or potentially hazardous conditions when performing a procedure with the concept of

providing at least one sensor carried by an individual, the sensor configured to detect a hazardous change ([0048] discloses an environmental sensor used to detect, identify, and measure hazardous or potentially hazardous conditions); and providing at least one sensor configured to detect at least one characteristic of an individual's physiological condition, the sensor positioned adjacent the individual during a procedure ([0048] discloses a physiological sensor used to monitor various physiological conditions that are required to identify, monitor, and evaluate the physiological condition of a person wearing system).

Therefore, from this teaching of Appelt et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method for ensuring personnel are properly outfitted with the required equipment to perform a procedure of Chen et al. to include providing a sensor to detect a hazardous change and a sensor to detect a characteristic of an individual's physiological condition as taught by Appelt et al. in order to aide in preventing physical injury or loss of life when working in hazardous or potentially hazardous conditions.

As per Claims 2 and 17, Chen et al. discloses the equipment including a garment (Col. 9, Lines 31-33, discloses the required equipment includes protective clothing or devices).

As per Claims 3 and 19, Chen et al. discloses the sensor on the equipment includes a smart tag (Col. 2, Lines 34-42, discloses a smart tag being permanently adhered to the equipment or sewn into an article of clothing).

As per Claims 7 and 23, Chen et al. discloses a change includes a change in an environment, a failure in equipment, a loss of equipment detected by a sensor, a lack of all equipment required for a procedure detected by a scan, any negative alteration of a physiological characteristic of an individual being scanned, and combination thereof (Col. 5, lines 14-18, discloses a change being an individual not having all the required pieces of equipment).

As per Claims 8 and 24, Chen et al. discloses countermeasures includes any item carried by an individual which at least partially counteracts a change and any information provided to an individual about a nearby location to obtain an item to at least partially counteract a change (Col. 8, Lines 46-61, discloses having the scanner placed in a storage location of the equipment; Col. 3, Lines 1-5, and displaying that the individual the required equipment that is missing).

As per Claim 9, Chen et al. discloses displaying the identification of the pieces of equipment identified by the scanner to the individual (Col. 9, Lines 53-55, discloses displaying the identification of the pieces of equipment that is identified by the smart tag scanner to the individual).

As per Claim 10, Chen et al. discloses initiating an alarm in the event that the individual does not have all of the required equipment (Col. 2, Line 67; Col. 3, Lines 1-6, discloses initiating an audible or visual alarm in the event that an individual is missing a piece of necessary equipment).

As per Claim 11, Chen et al. discloses associating a smart tag with the individual, the smart tag containing information identifying the individual (Col. 3, Lines

29-33, discloses a smart tag being associated with an individual and containing information identifying the individual).

As per Claims 12 and 28, Chen et al. discloses the smart tag information includes a link to a remote database having information regarding the equipment (Col. 2, Lines 46-59, discloses equipment information being located on a database which is associated with a smart tag via an identification code in the smart tag, which may serve as a link to the database information).

As per Claims 13 and 29, Chen et al. discloses the scanner accesses the remote database and displays information there from (Col. 12, Lines 48-50, discloses a scanner accessing a remote database and displaying information therefrom).

As per Claims 14 and 30, Chen et al. discloses the remote database in an Internet site, the scanner being an Internet accessible device (Col. 12, Lines 51-53, discloses the remote database is an Internet site, where the scanner is an Internet accessible device).

5. Claims 4 and 20 are rejected under 35 U.S.C. 103(a) as being obvious over Chen et al. (6,853,303) in view of Appelt et al. (US 2004/0004547), as applied to Claims 1 and 16, above, and in further view of Lye et al. (US 2004/0100376).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an

invention “by another”; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(l)(1) and § 706.02(l)(2).

As per Claims 4 and 20, the Chen et al. and Appelt et al. combination discloses the claimed invention, as applied to Claims 1 and 16, above. However, the Chen et al. and Appelt et al. combination fails to explicitly disclose the sensor includes a biosensor.

Lye et al. discloses a method for monitoring a health condition of an individual with the concept of the sensor carried by an individual includes a biosensor ([0013]) discloses a biosensor which can be placed on or adjacent to the skin or in an article that is worn next to the body).

Therefore, from the teaching of Lye et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method and system of the Chen et al. and Appelt et al. combination to include the sensor including a biosensor as taught by Lye et al. in order to aide in monitoring the health condition of an individual working in hazardous or potentially hazardous conditions.

6. Claims 5, 6, 21, and 22 are rejected under 35 U.S.C. 103(a) as being obvious over Chen et al. (6,853,303) in view of Appelt et al. (US 2004/0004547), as applied to Claims 1 and 16, above, and in further view of Phipps (6,579,231).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention “by another”; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(l)(1) and § 706.02(l)(2).

As per Claims 5 and 21, the Chen et al. and Appelt et al. combination discloses the claimed invention, as applied to Claims 1 and 16, above. However, the Chen et al. and Appelt et al. combination fails to explicitly disclose a medical sensor configured to detect a characteristic of an individual's physiological condition.

Phipps discloses a portable medical monitoring device with the concept of a sensor configured to detect at least one characteristic of an individual's physiological condition includes a medical sensor (Col. 8, Lines 40-43, discloses a medical sensor for periodically generating current physiological data relating to a condition of a subject).

Therefore, from the teaching of Phipps, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method and system of the Chen et al. and Appelt et al. combination to include a medical sensor configured to detect a characteristic of an individual's physiological condition as taught by Phipps in order to provide immediate notification when an adverse health condition of an individual has occurred.

As per Claims 6 and 22, the Chen et al. and Appelt et al. combination discloses the claimed invention, as applied to Claims 5 and 21, above. However, the Chen et al. and Appelt et al. combination fails to explicitly disclose a medical sensor that includes a transmitter associated therewith.

Phipps discloses a medical sensor that includes a transmitter associated therewith (Col. 8, Lines 46-48, discloses a transmitter for transmitting the physiological data provided by the medical sensor to a reporting system).

Therefore, from the teaching of Phipps, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method and system of the Chen et al. and Appelt et al. combination to include a medical sensor that includes a transmitter associated therewith as taught by Phipps in order to provide immediate notification when an adverse health condition of an individual has occurred.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Stumberg et al. (6,201,475) discloses a system that allows a firefighter to monitor a variety of safety related parameters during firefighting activities.

Bridger et al. (6,491,647) discloses a non-invasive device for measuring physiological processes.

Wiesmann et al. (6,199,550) discloses a self-contained breathing apparatus mask that incorporates a series of physiologic sensors.

Richardson (7,019,652) discloses a respirator system for a worker in an environment with hazardous airborne contaminants.

Anders et al. (4,656,463) discloses system that uses tags to identify and measure the movement of an item.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FONYA LONG whose telephone number is (571)270-5096. The examiner can normally be reached on Mon/Fri [7:30am/5:00pm EST] with First Fri. Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynda Jasmin can be reached on (571) 270-3033. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FML

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